

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.23746 of 2015

Date of Decision :5.11.2015

Om Parkash

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

Present: Mr.Vinod S.Bhardwaj, Advocate
for the petitioner.

MAHESH GROVER. J.

The petitioner impugns the orders Annexure P-6 and P-11.

He was compulsorily retired from service upon attaining the age of 55 years on 11.6.2009. He refers to his service record to contend that his ACRs for the previous 10 years were generally good with no adverse entry except for one in which he was shown to be involved in a case under the Prevention of Corruption Act in the year 2007-08. It is ostensibly this entry which reflects on the credibility of the petitioner that the order of compulsory retirement on his attaining the age of 55 years was passed. The petitioner now contends that in the criminal case he was acquitted by this court in CRA-S-1036-SB-2010, and therefore he immediately made a representation to

the respondents urging them to reinstate him in service so as to enable him to get the notional benefits which he would be entitled to after the age of superannuation he has now attained in 2012. By virtue of Annexure P-11 his prayer has been rejected.

Learned counsel for the petitioner contends that once the allegations under the Prevention of Corruption Act stands washed of on account of his acquittal by this court, the respondents would have no reason to uphold the decision of compulsory retirement at the age of 55 years particularly when his service record for the previous 10 years does not carry any adverse entry.

It is not in dispute that the petitioner was proceeded departmentally as well where after inquiry he was inflicted with a punishment of stoppage of three annual increments with permanent effect which order has remained unchallenged by the petitioner. The inquiry pertained to the very same incident for which FIR was also registered and in which the petitioner now stands exonerated of his culpability.

I have heard the learned counsel for the petitioner and have perused the impugned orders as also the material placed on record by the petitioner.

It is a settled proposition of law that an employee can

be retired at the age of 55 years if his service record is found to be unsatisfactory. There is indeed no doubt, if Annexure P-3 is seen, that the previous record of the petitioner of 10 years preceding the date of passing of the order is good but for one entry of the year 2007-08 which reflected on his integrity and credibility his involvement in a case under the Prevention of Corruption Act and acquittal thereafter will be inconsequential to the cause of the petitioner espoused in the writ petition particularly keeping in view the fact that he has faced disciplinary proceedings where his misconduct has been established. Even a single instance which comments on the credibility of an employee is good enough to see him out of service at the age of 55 years regardless of the previous entries being good. Once the respondents have doubted the credibility of the petitioner in departmental proceedings and punished him also for the same, the petitioner cannot raise a cause to say that a corresponding entry was not made in the ACR. It would be incorrect to say that simply because an entry regarding integrity doubtful has not been recorded in the ACR but a misconduct revolving around an instance which speaks about the credibility of an employee is otherwise established should not be taken into consideration. An employer is well within his right to examine the conduct of an employee and his overall performance. ACRs are merely guiding

factors recorded by the competent authority and reflective of the general performance. A misconduct which stands established in appropriate proceedings, even if not reflected in the ACRs, can still be taken into consideration particularly if it discredits the employee and places him under a cloud.

For the aforesaid reasons, I do not find any reason to interfere to grant the prayer of the petitioner for being put back in service and obtain service benefits even though notionally.

Petition dismissed.

5.11.2015
dss

(MAHESH GROVER)
JUDGE